

Sage Telecom, Inc.

§

Petition for Arbitration of an
Interconnection Agreement with
Illinois Bell Telephone Company d/b/a
SBC Illinois under Section 252(b) of the
Telecommunications Act of 1996

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CHIEF CLERK'S OFFICE

ICC Docket No. 03-0314

**SAGE TELECOM, INC.'S NOTICE OF WITHDRAWAL OF
PETITION FOR ARBITRATION**

Sage Telecom, Inc. ("Sage"), by its attorney, respectfully files its Notice of Withdrawal of its Petition for Arbitration. In support, Sage respectfully states:

1. Sage filed its Petition for Arbitration ("Petition") with Illinois Bell Telephone Company d/b/a SBC Illinois ("SBC") on May 9, 2003. On that same day, but after Sage had filed its Petition, the Illinois General Assembly passed and Governor Blagojevich approved Senate Bill 885 ("SB 885"), resulting in Public Act 93-0005. SB 885 allows SBC to dramatically increase its unbundled network element ("UNE") rates, particularly its UNE-loop rates, with little discretion afforded to the Commission on the key issues of fill factors and depreciation rates; both of which are significant cost drivers for determining the UNE-loop rate. Indeed, it is Sage's understanding that SBC recently filed a petition to approximately double its UNE-loop rates, which relies on SB 885. SBC, as the instigator of SB 885, had clearly devised this legislation as a means to increase its revenues and discourage competitive entry with little or no ability for this Commission to use its ratemaking expertise.
2. As Sage outlined in its Petition, Sage is somewhat unique in that its focus is on residential and small business customers in rural and suburban areas. At the time that

Sage started negotiations with SBC for an interconnection agreement, Sage determined that given the pro-competitive environment for interconnection and UNE-rates created by this Commission and contemplated by the federal Telecommunications Act, and given SBC's own public statements that it was welcoming competition, it was viable for Sage to deploy competitive telecommunications services to customers in rural and suburban areas throughout Illinois. With the passage of SB 885 and SBC's immediate act to basically double its existing UNE-loop rates, the environment to provide competitive alternatives to residential and small business customers in Illinois is significantly changed. SB 885 not only arguably removes or diminishes significantly the Commission's authority to set TELRIC-based UNE-loop rates, it also allows only 30-days for a determination of the new rates and mandates that all carriers' rates will be modified immediately, regardless of their ability to participate in the proceeding or present evidence to establish that SBC's proposed rates are unreasonable. As a result, with SB 885, and the strong possibility that SBC will double its UNE-loop rates, at this juncture, Sage cannot be assured of a viable business plan in Illinois to provide competitive UNE-Platform ("UNE-P") based service to Illinois customers in the rural and suburban rate zones of Illinois. The rates that SBC proposed immediately following its successful strong-arming of the legislature, combined with the anti-competitive environment created by SB 885, results in a competitive barrier to entry into Illinois for Sage. Consequently, at this time, Sage is halting its deployment plans in Illinois, pending judicial and legislative review of SB 885.¹

¹ To be clear, Sage is not seeking a withdrawal of its Certificate of Service Authority to operate as a facilities based carrier and/or reseller of telecommunications services, as approved by this Commission on October 24, 2001. ICC Docket No. 01-0508, *Sage Telecom, Inc., Application for a Certificate of Local and*

3. With the halt in deployment plans at this time, Sage respectfully withdraws its Petition. Sage does not believe that there is any reason to expend the Commission and parties' resources on an arbitration when SB 885 has so significantly reduced the viability of competitive local exchange carrier ("CLEC") entry into rural and suburban markets.

4. Sage wishes to stress that the Commission has consistently taken pro-competitive actions. Indeed, as Sage cannot emphasize enough, Sage's deployment plans were premised on the pro-competitive regulatory landscape that the Commission has established for UNE rates and contractual terms and conditions. However, SBC's overt pressure on the legislative process, resulting in SB 885, has created an environment that is no longer conducive to Sage's market entry. Not only does Sage lose the opportunity to provide services in Illinois, but most importantly, consumers and small businesses in rural and suburban areas throughout Illinois will miss out on the benefits derived from robust competition.

5. Sage is hopeful that the problems associated with SB 885 will be remedied through judicial, legislative, or regulatory means. When and if the problems are remedied, Sage looks forward to reassessing its business opportunities in Illinois, restarting the timelines of Section 251 and 252 of the federal Telecommunications Act, and actively entering the Illinois market.

For the foregoing reasons, Sage respectfully files its Notice of Withdrawal.

Respectfully submitted,

SMITH, MAJCHER & MUDGE, L.L.P.

816 Congress Avenue, Suite 1270
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By: _____



Jason Wakefield

Texas State Bar No. 00789849

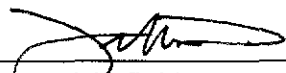
ATTORNEYS FOR SAGE TELECOM,
INC.

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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**SAGE TELECOM, INC.'S
VERIFICATION**

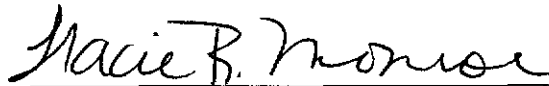
I, Jason Wakefield, being first duly sworn, depose and state that I am an attorney for Sage Telecom, Inc., that I have read the foregoing Notice of Withdrawal of Petition for Arbitration and know the contents thereof and that the statements therein contained are true, to the best of my knowledge information and belief.



Jason Wakefield

SUBSCRIBED AND SWORN to before me this 19th day of May 2003.






Notary Public for the State of Texas

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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NOTICE OF FILING

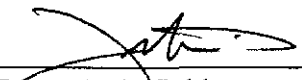
Please take noticed that on May 19, 2003, the undersigned filed via-E-Docket, **Sage Telecom, Inc.'s Notice of Withdrawal of Petition for Arbitration** with the Clerk of the Illinois Commerce Commission.



Jason Wakefield, an attorney
For Sage Telecom, Inc.

CERTIFICATE OF SERVICE

I, Jason M. Wakefield, an attorney, on oath state that I served this **Notice of Filing** and **Notice of Withdrawal of Petition for Arbitration** to each person on the attached Service List, via electronic mail and by deposit in the U.S. Mail with proper postage prepaid on this the 19th day of May, 2003.



Jason Wakefield

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ILLINOIS COMMERCE COMMISSION**

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